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combination of references and a motivation for modifying the references, Applicant assumes that the Examiner has merely continued to propagate a typographical error and intended to reject these claims under 35 U.S.C. § 103(a).

Claims 1, 5-6, and 11-13 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of the Flavin reference in view of the Kwoh et al. reference. Claims 1-7, 9-23, 25-26, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hendricks, et al. reference in view of the Kwoh et al. reference. Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hendricks, et al. reference, in view of the, Kwoh et al. reference and in further view of the Menard et al. reference. Claims 24, 27-28, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hendricks, et al. reference, in view of the, Kwoh et al. reference and in further view of the Birdwell et al. reference.

These rejections are respectfully traversed in the following discussion.

I. THE EXAMINER'S RESPONSE TO ARGUMENTS

The Examiner acknowledges that the Applicant has repeatedly pointed out that the applied references do not teach or suggest that the announcements are not received via a broadcaster.

In response, the Examiner states:

"Hendricks discloses the television programs are received from external program sources (212) at the operations center. The program control signals are provided by the computer assisted packaging equipment (CAP) at the operations center or at the head end (figures 1-2; col. 6, line 4 - col. 7, line

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14). Thus, Hendricks teaches the announcements (program control signals) are not received via the broadcaster (external sources). Instead, the announcements are received via CAP or a computer at the head end.” (Emphasis added).

As was explained by the Applicant's representative during the March 23, 2004, personal interview, and as pointed out by the Amendment that was filed on August 10, 2004 AND the Amendment that was filed on April 2, 2004, AND as admitted by the Examiner again by the above quote from the Examiner's January 13, 2005, Office Action, the Hendricks et al. reference teaches that “the program control signals are provided by the computer assisted packaging equipment (CAP) at the operations center or at the head end” and that, the operations center 202 also broadcasts the content.

In other words, the operations center, which includes the computer assisted packaging equipment, IS A BROADCASTER.

Further, this very point was explained to Examiners Huynh and Srivastava during the personal interview on March 23, 2004 and both of the Examiners agreed that this feature distinguishes over the applied references.

Despite this very clear and simple distinction, the Examiner continues to be confused with respect to this very important concept that is directly related to the point of novelty of the present invention.

As repeatedly explained, in stark contrast to the disclosure of the applied references, where only a broadcaster of the content can add data to a content stream because the broadcasters control the communication channel over which the content stream is broadcast.

In other words, the broadcasters of the content have ultimate control over the content being

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broadcast and the conventional systems have enabled automatic control over the viewing of the content by a receiver (e.g., a set top device). However, this control over the viewing (e.g., presentation) of the content stream has been based upon signals received from the broadcasters of the content, rather than an independent source, which may be more trusted by a user than a broadcaster for providing a competent judgment about the content.

With the inventive system, unlike the applied references, a user does not have to rely upon any data that is provided by a broadcaster regarding the content that is provided by the broadcaster.

Rather, a user of the inventive system may receive announcements regarding the content using a communication channel that is separate from a communication channel that provides the content and which may also be controlled by a broadcaster. In other words, the inventive system provides that the one or more announcements are not received via a broadcaster.

The Examiner's statement that the Hendricks et al. reference discloses that the program control information "is not received via external sources," but rather are provided by the computer assisted packaging equipment (CAP) at the operations center or at the head end" only reinforces the Applicants argument that the program control information is received via a broadcaster (e.g., the operations center) in the Hendricks et al. reference. Therefore, the Hendricks et al. reference clearly does not teach or suggest that the one or more announcements are not received via a broadcaster.

II. THE CLAIMED INVENTION

The claimed invention, as defined, for example, by independent claim 1, is directed to

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a segment announcement receiver that includes a receiver section that receives one or more announcements and a controller. The one or more announcements corresponds to a content being provided on one or more content streams. Each of the one or more announcements includes a description about the corresponding content in the one or more of the content streams, a time at which the corresponding content is transmitted on the signal, and a content identifier. Each of the one or more announcements was created by a party other than a broadcaster of the one or more content streams. The one or more announcements are not received via the broadcaster.

As shown, for example, by Figure 1 of the present specification, an exemplary embodiment of the present invention may provide one or more announcements on a first communication connection (such as, for example, a network connection 120) (page 2, line 19 - page 3, line 1; and page 4, lines 15-17). Figure 1 clearly illustrates that a person 111 or group of people 111 may enter descriptive information about a content stream 112 that these people 111 are perceiving. This content stream 112 is provided on a communication connection that is completely separate from the communication connection that provides the announcements to the segment announcement receivers 150. For, example, the content stream 112 that is shown in Figure 1 is provided over a television broadcast that is a communication channel that is broadcast over the airways and received by the antennas of the televisions 112. In other words, the television broadcast is provided on a communication channel of the airways.

In stark contrast, the announcements that are generated by the person(s) 111 are provided to the receivers on the completely separate communication channel 120.

In this manner, the present invention provides announcements from a person(s) or

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party that is not a broadcaster of the content stream.

This stands in stark contrast to the conventional systems, such as the applied references, where only a broadcaster of the content can add data to a content stream because the broadcasters control the communication channel over which the content stream is broadcast. The broadcasters of the content have ultimate control over the content being broadcast and the conventional systems have enabled automatic control over the viewing of the content by a receiver (e.g., a set top device). However, this control over the viewing (e.g., presentation) of the content stream has been based upon signals received from a broadcaster of the content, rather than an independent source which may be more trusted by a user than a broadcaster for providing a competent judgment about the content.

With the inventive system, unlike the applied references, a user does not have to rely upon any data that is provided by a broadcaster regarding the content that is provided by a broadcaster. Rather, a user of the inventive system may receive announcements regarding the content using a communication channel that is separate from a communication channel that provides the content and which may also be controlled by a broadcaster. In other words, the inventive system provides that the one or more announcements are not received via a broadcaster.

III. THE DOUBLE PATENTING REJECTION

The Examiner alleges that claims 1, 5-6 and 11-13 are unpatentable over claims 1-7 of the Flavin reference in view of the Kwoh et al. reference. Applicant submits that the claims of the patent do not teach the limitations of the present claims.

Specifically, the patent claims teach that the announcements must be created by a

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party other than a broadcaster of the one or more content streams. In contrast, the claims of the present application do not require that the announcements be created by a third party. Thus, the patent claims do not teach that the announcements have to be created by a third party.

Additionally, with respect to claims 18-30, the claims of the patent do not require that the announcements be provided on a first communication connection that is separate from a second communication connection that provides a content stream. Therefore, the patent claims do not teach or suggest that the announcements be provided on a first communication connection that is separate from a second communication connection that provides a content stream.

Therefore, the claims of the patent do not teach the limitations of the application claims.

Applicant respectfully requests withdrawal of this rejection.

IV. THE PRIOR ART REJECTIONS

A. The Hendricks et al. reference in view of the Kwoh et al. reference

Regarding the rejection of claims 1-7, 9-23, 25-26, and 29, the Examiner continues to allege that the Kwoh et al. reference would have been combined with the Hendricks et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As repeatedly explained before and again above, neither of the Hendricks et al. reference and the Kwoh et al. reference teaches or suggests the features of the present

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invention including one or more announcements are not received via a broadcaster.

In stark contrast, the Hendricks et al. reference merely discloses a receiver (e.g. set top terminal 220) that receives information from a broadcaster (e.g., the operations center 202) via a communication channel that passes from the operations center 202, uplink sites 204, satellite 206, the cable headend 208 and the concatenated cable system 210 (col. 4, line 60 - col. 5, line 3). In other words, the Hendricks et al. reference discloses providing the content (programs) on the same communication channel as the program control information signal.

While it is true that the external program sources each broadcast their own corresponding content, the operations center 202 receives the content from the external program sources and also broadcasts the content. Therefore, since the operations center 202 performs both the functions of broadcasting content and providing the program control signal, the Hendricks et al. reference does not teach or suggest providing the program control signal being provided by a party other than a broadcaster.

The Examiner appears to fail to appreciate that the operations center 202 IS A BROADCASTER.

Indeed, the Examiner's continuously repeated rejection continues to acknowledge that "the program control information is created by CAP at operations center, and modified by network control 214 at the headend, it is not received via external networks." (Emphasis added.) Thus, the Examiner appears to understand and admit that the program control information is received via a broadcaster (e.g., the operations center) and, therefore, clearly does not meet the feature recited by the independent claims that the announcements are not received via a broadcaster.

With the inventive system, unlike the applied references, a user does not have to rely

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upon any data that is provided by a broadcaster regarding the content that is provided by a broadcaster. Rather, a user of the inventive system may receive announcements regarding the content using a communication channel that is separate from a communication channel that provides the content and which may also be controlled by a broadcaster. In other words, the inventive system provides that the one or more announcements are not received via a broadcaster.

The Examiner's statement that the Hendricks et al. reference discloses that the program control information "is not received via external sources" only reinforces the Applicants argument that the program control information is received via a broadcaster in the Hendricks et al. reference. Therefore, the Hendricks et al. reference clearly does not teach or suggest that the one or more announcements are not received via a broadcaster.

The Kwoh et al. reference does not remedy these deficiencies of the Hendricks et al. reference. Indeed, the Examiner does not allege that the Kwoh et al. reference teaches or suggests the features of the present invention including one or more announcements are not received via a broadcaster.

Moreover, Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different and unrelated matters and problems.

Specifically, the Hendricks et al. reference is directed to addressing the lack of a "method of managing the program choices" (col. 1, lines 45-46). "The problem is that TV programming is not being presented to consumers in a user friendly manner" (col. 2, lines 12-15). "What is needed is an economical system which can present television programs through a user friendly interface which allows the consumer to easily select from among the many

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program choices . . . that assists the consumer with his program selection . . . for presenting the program choices . . . a system that can be remotely reprogrammed” (emphasis added, col. 2, lines 21-31). See also (col. 2, lines 39-40, 42-43, and 64-65).

In other words, the Hendricks et al. reference is concerned with presenting program choices in a manner which is user friendly.

In stark contrast, the Kwoh et al. reference is specifically directed to providing a television receiver that allows a parent to control the viewing of programs (col. 1, lines 60-62).

One of ordinary skill in the art who was concerned with presenting program choices in a manner which is user friendly as the Hendricks et al. reference is concerned with providing would not have referred to the Kwoh et al. reference because the Kwoh et al. reference is concerned with the completely different and unrelated problems of providing a television receiver that allows a parent to control the viewing of programs. Thus, the references would not have been combined.

Lastly, regarding the means plus function recitations, the Examiner has failed to interpret the claims to read only on the structures or materials disclosed in the specification and “equivalents thereof.” The Federal Circuit has made it clear that the Office is required to interpret means plus function language in accordance with 35 U.S.C. § 112, sixth paragraph (see M.P.E.P. §2106; *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994) and *In re Alappat*, 33 F.3d 1526, 1540 (Fed. Cir. 1994)). Clearly, the Examiner has failed to interpret the claims to read only on the structures or materials disclosed by the present specification and “equivalents thereof.”

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims

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1-7, 9-17, and 19-23.

B. The Hendricks et al. reference in view of the Kwoh et al. reference and in further view of the Menard et al. reference

Regarding claim 8, the Examiner continues to allege that the Kwoh et al. reference would have been combined with the Hendricks et al. reference and further alleges that the Menard et al. reference would have been combined with a combination of the Hendricks et al. reference and the Kwoh et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As explained above, neither of the Hendricks et al. reference and the Kwoh et al. reference teaches or suggests the features of the present invention including one or more announcements are not received via a broadcaster. As explained above, this feature is important for a user of the inventive system to ensure the ability to alter the presentation of content being provided by a broadcaster on a communication channel using announcements whose judgment may be trusted because the announcements are provided on a communication channel that is separate from the channel that provides the content. In other words, the announcements are not received via a broadcaster.

The Menard et al. reference does not remedy these deficiencies. Indeed, the Examiner does not allege that the Menard et al. reference teaches or suggest the features of the present invention including one or more announcements are not received via a broadcaster.

Rather, the Menard et al. reference merely discloses receiving closed caption text from the same communication channel (television signal 2) that provides the content (video 9 and

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audio 11) that is provided by a broadcaster. The Menard et al. reference discloses storing keywords that may be used to retrieve video and audio clips by comparing the keywords to the closed captioned text (col. 5, lines 7-38).

Moreover, Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different and unrelated matters and problems.

As explained above, one of ordinary skill in the art would not have combined the Hendricks et al. reference with the Kwoh et al. reference because they are directed to completely different and unrelated problems.

In stark contrast to the Hendricks et al. reference and the Kwoh et al. reference, the Menard et al. reference is directed to the completely different and unrelated problem of monitoring broadcasts and detecting content of particular interest to a user and storing the content (col. 1, line 66 - line 19).

One of ordinary skill in the art who was concerned with presenting program choices in a manner which is user friendly as the Hendricks et al. reference is concerned with providing or who was concerned with the problems of providing a television receiver that allows a parent to control the viewing of programs as the Kwoh et al. reference is concerned would not have referred to the Menard et al. reference because the Menard et al. reference is only concerned with the completely different and unrelated problem of monitoring broadcasts and detecting content of particular interest to a user and storing the content. Thus, the references would not have been combined.

Further, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, the Examiner

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does not even support the combination by identifying a reason for combining the references.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claim 8.

C. The Hendricks et al. reference in view of the Kwoh et al. reference and in further view of the Birdwell et al. reference

Regarding claims 24, 27-28, and 30, the Examiner continues to allege that the Kwoh et al. reference would have been combined with the Hendricks et al. reference and further alleges that the Birdwell et al. reference would have been combined with a combination of the Hendricks et al. reference and the Kwoh et al. reference to form the claimed invention.

Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As explained above, neither of the Hendricks et al. reference and the Kwoh et al. reference teaches or suggests the features of the present invention including one or more announcements are not received via a broadcaster. As explained above, this feature is important for a user of the inventive system to ensure the ability to alter the presentation of content being provided by a broadcaster on a communication channel using announcements whose judgment may be trusted because the announcements are provided on a communication channel that is separate from the channel that provides the content. In other words, the announcements are not received via a broadcaster.

The Birdwell et al. reference does not remedy these deficiencies. Indeed, the Examiner does not allege that the Birdwell et al. reference teaches or suggest the features of the present invention including one or more announcements are not received via a

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broadcaster.

Rather, the Birdwell et al. reference merely discloses that either an announcement server or a content server generates and transmits announcements to a client and that the announcement server (or content server) also broadcasts the content. (Col. 5, lines 5-14 and 50-57 and col. 7, lines 34-40).

In other words, just like the Hendricks et al. reference and the Kwoh et al. reference, the Birdwell et al. reference also relies upon a broadcaster of the content to transmit the announcements. The Birdwell et al. reference very clearly teaches that only a broadcaster of the content is capable of transmitting the announcements.

Therefore, the Birdwell et al. reference clearly does not remedy the deficiencies of the Hendricks et al. reference and the Kwoh et al. reference because the Birdwell et al. reference does not teach or suggest the features of the present invention including: 1) the announcements being created by a party other than a broadcaster of the content stream (claim 1); and 2) one or more announcements are not received via a broadcaster (claim 1).

As explained above, these features are important because the present invention ensures that a broadcaster of the content does not have control over the announcements, thereby denying a broadcaster of the ability to control the editorial content of the announcements and permitting the ultimate consumer to potentially receive broadcasts that are not biased by the editorial control of a broadcaster.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 24, 27-28, and 30.

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V. FORMAL MATTERS AND CONCLUSION

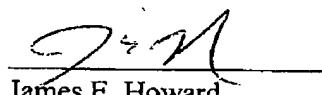
In view of the foregoing remarks, Applicant respectfully submits that claims 1-30, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

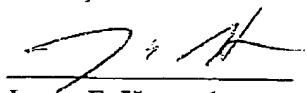
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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that I am filing this Request for Reconsideration by facsimile with the United States Patent and Trademark Office to Examiner Son P. Huynh, Group Art Unit 2611 at fax number (703) 872-9306 this 7th day of March, 2005.


James E. Howard
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